

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**  
*Criminal No. 21-cr-108 (PAM/TNL) (3)*

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	<b>DEFENDANT KUENG’S FIFTH</b>
Vs.	)	<b>MOTION IN LIMINE</b>
	)	
J ALEXANDER KUENG,	)	
	)	
Defendant.	)	
	)	

Mr. Kueng moves this Court for an order prohibiting the government from entering into evidence or relying on videos that combine officer body worn cameras (BWC) with any bystander video. Alternatively, Mr. Kueng asks that the audio portion of the combined videos be restricted to the BWC audio only. The combined videos, especially the audio portion of the videos, suggest that the officers were able to perceive facts, sounds and events that were not available to the officers at the time the events in question and have no bearing on the "objective reasonableness test" when examining an officer's actions. *Graham v. Connor*, 490 U.S. 386, 392-399 (1989) The combined videos prejudice Mr. Kueng because they inaccurately and falsely depict the facts known at the time and should not be considered by the jury on the issue of how a similarly trained and experienced officer would respond. *See* Fed. R. Evid. 401, Fed. R. Evid. 403.

Respectfully submitted,

Dated: December 30, 2021

/s/ Thomas C. Plunkett

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